THE STATE OF SOUTH CAROLINA
In The Supreme Court

Irvin W. Campbell, J. C. Lawyer, Backus Ferguson, and Thomas Hanahan, III, on behalf of themselves and all others similarly situated, Respondents

v.

Hilton Head No. 1 Public Service District and Beaufort County South Carolina, Appellants.

Appeal From Beaufort County
Perry M. Buckner, Circuit Court Judge

Opinion No. 25635
Heard February 20, 2003 - Filed April 28, 2003

JUSTICE WALLER: This is a direct civil appeal. On cross-motions for summary judgment, the trial court granted summary judgment for respondents and also granted respondents' request for class certification. Appellants appeal both decisions. We reverse.

FACTS[1]

In 1969, the Legislature created appellant Hilton Head

[1] The facts in this matter are undisputed.

No. 1 Public Service District (the District) as a special purpose district to supply water and sewer services to the northern portion of Hilton Head Island. The District is governed and managed by a commission whose members are appointed by the Governor upon the recommendation of the Beaufort County legislative delegation. Prior to this Court's decision in *Weaver v. Recreation Dist.*, 328 S.C. 83, 492 S.E.2d 79 (1997), the District levied taxes on property within the District's service area. Appellant Beaufort County collected the taxes.

In *Weaver*, we ruled that the statute which authorized the recreation district's appointed commission to levy a property tax violated the State Constitution's provision forbidding taxation by unelected officials.[2] The general holding from *Weaver* is that any legislative delegation of taxing authority to an **appointed** body unconstitutionally permitted "taxation without representation." *Id.* The *Weaver* Court, however, ordered only prospective relief, stating the following:

> We are cognizant ... of the disruptive effect today's holding could have on the financial operation of numerous special purpose districts, local commissions and boards throughout this state. Accordingly, in order to give the General Assembly an opportunity to address this problem, we hold this decision shall be applied prospectively beginning December 31, 1999.

Id. at 87-88, 492 S.E.2d at 82. In response, the Legislature passed legislation in 1998 that removed the taxing power from appointed bodies such as the District's commission. *See* S.C.

[2] See S.C. Const. art. X, § 5 ("No tax ... shall be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people or their representatives lawfully assembled....").

Code Ann. § 6-11-271 (Supp. 2002).

The individual respondents in the instant action represent people who own real and/or personal property located in the District, paid taxes on the property in the years 1995 through 1998, and did not receive water or sewer service from the District.[3] On June 1, 1998, respondents filed their lawsuit. The case has a tortured procedural history;[4] however, respondents' only remaining cause of action is a 42 U.S.C. § 1983 claim based on an alleged violation of the United States Constitution.[5]

[3] Additionally, respondents include only those who still do not receive any water or sewer service from the District.

[4] For example, the case began with two similar complaints filed in state and federal court, each alleging several causes of action. The state court case was removed to federal court, consolidated with the federal case, and then eventually remanded to state court. See *Lawyer v. Hilton Head Public Serv. Dist. No. 1*, 220 F.3d 298 (4th Cir. 2000), *aff'g Campbell v. Hilton Head No. 1 Public Serv. Dist.*, 114 F.Supp.2d 482 (D.S.C. 1999).

[5] Section 1983 provides:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to **the deprivation of any rights, privileges, or immunities secured by the Constitution and laws**, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

(Emphasis added). Thus, the statute creates a civil rights action for

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The trial court granted summary judgment in favor of respondents finding that taxation without representation is a violation of the federal Constitution. Specifically, the trial court found that the privilege of no taxation without representation is embodied in Article IV, section 4 of the federal constitution, which guarantees a republican form of government. The trial court noted "it was taxation without representation that spurred on the American Revolution," and therefore could not accept appellants' argument that the federal constitution did not forbid taxation without representation. In addition, the trial court granted respondents' motion for class certification.

ISSUES

1. Did the trial court err in finding that taxation without representation violates the Republican Guarantee Clause of the United States Constitution?

2. Did the trial court err in certifying the class?

DISCUSSION

Respondents argued to the trial court that "taxation without representation" is not permitted under the United States Constitution. Respondents reasonably continue to contend that this founding principle of our nation necessarily is embodied in the federal constitution. Appellants, on the other hand, argue the trial court erred in finding the Republican Guarantee Clause prohibits taxation without representation. Moreover, appellants do not suggest that our nation has abandoned its founding

[5](...continued)
the deprivation of a **federal** right.

principles, but rather argue that the limited delegation of taxing power that occurred prior to *Weaver* in no way violated a right guaranteed by the **federal** constitution. After reviewing the relevant authorities, we agree with appellants, and reverse the trial court's decision.

The Republican Guarantee Clause of the federal Constitution provides as follows: "The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence." U.S. CONST. art. IV, § 4. By its express terms, this clause does not guarantee against taxation without representation.

Furthermore, "[a]lthough it may surprise innumerable generations of American schoolchildren and adults who have studied the American [R]evolution and the Boston Tea Party, there is firm Supreme Court precedent to support taxation without representation." Samuel B. Johnson, *The District of Columbia and the Republican Form of Government Guarantee*, 37 How. L.J. 333, 337 (1994); *see also* Emily M. Calhoun, *The First Amendment and Distributional Voting Rights Controversies*, 52 Tenn. L. Rev. 549, 574 (1985) ("The Court ... has refused to transmute the Revolutionary slogan 'no taxation without representation' into a constitutional principle.").

Indeed, the United States Supreme Court (USSC) has repeatedly rejected the contention that the federal constitution guarantees no taxation without representation. For instance, in *Heald v. District of Columbia*, 259 U.S. 114 (1922) (Brandeis, J.), residents of the District of Columbia challenged a property tax which Congress levied, arguing it subjected them to taxation without representation. The USSC clearly stated: "There is no constitutional provision which so limits the power of Congress

that taxes can be imposed only upon those who have political representation." *Id.* at 124.

Likewise, in *Loughborough v. Blake*, 18 U.S. (5 Wheat.) 317 (1820) (Marshall, C.J.), residents of the District of Columbia challenged the right of Congress to impose a direct tax on the District. They argued that Congress' right to legislate on matters related to the District "must be limited by that great principle which was asserted in our revolution, that representation is inseparable from taxation." *Id.* at 324. However, Chief Justice Marshall, writing for a unanimous Court, noted that it was "obvious" the situation was completely different from that complained of during the Revolution, and held "that Congress possesses, under the constitution, the power to lay and collect direct taxes within the District of Columbia." *Id.* at 324-25.[6]

[6] See also *Thomas v. Gay*, 169 U.S. 264 (1898). In this case, the appellants were non-residents of Oklahoma who objected to Oklahoma's tax on their personal property – herds of cattle that were kept and grazed on an Indian reservation in Oklahoma. The appellants argued the tax constituted taxation without representation. The USSC commented as follows:

> Undoubtedly there are general principles, familiar to our systems of state and federal government, that the people who pay taxes imposed by laws are entitled to have a voice in the election of those who pass the laws, and that taxes must be assessed and collected for public purposes, and that the duty or obligation to pay taxes by the individual is founded in his participation in the benefits arising from their expenditure. **But these principles, as practically administered, do not mean that no person, man, woman, or child, resident or nonresident, shall be**

(continued...)

Heald and *Loughborough* remain good law. Recently, a three-judge panel of the federal district court rejected a claim by residents of the District of Columbia that they had a right to vote for Congress. *Adams v. Clinton*, 90 F.Supp.2d 35 (D.D.C.), *aff'd*, 531 U.S. 941 (2000). As part of the extensive discussion on the plaintiffs' various constitutional claims, the *Adams* court reviewed *Heald* and *Loughborough*, as well as other authorities that have rejected "the cry of 'no taxation without representation.'" *Id.* at 55. Interestingly, the court commented as follows on *Loughborough*:

> If there were a Justice who would have been particularly sensitive to this reprise of the Revolutionary War battle cry of "no taxation without representation," surely it would have been Marshall-- who served as a company commander at Valley Forge. *See* Jean Edward Smith, JOHN MARSHALL: DEFINER OF A NATION 62-65 (1996). Nonetheless, speaking for a

[6](...continued)

> **taxed, unless he was represented by some one for whom he had actually voted, nor do they mean that no man's property can be taxed unless some benefit to him personally can be pointed out.** Thus it has been held that personal allegiance has no necessary connection with the right of taxation; an alien may be taxed as well as a citizen.... So, likewise, it is settled law that the property, both real and personal, of nonresidents may be lawfully subjected to the tax laws of the state in which they are situated.

Id. at 276-77 (emphasis added, citation omitted).

> unanimous Court, Marshall held that Congress had the power to tax residents of the District of Columbia despite their lack of representation.

Id. The USSC affirmed *Adams*.

Respondents rely on *Kelley v. Metropolitan County Bd. of Educ. of Nashville and Davidson County*, 836 F.2d 986 (6th Cir. 1987), *cert. denied*, 487 U.S. 1206 (1988), in support of their argument. In *Kelley*, the court held that the federal district court erred in ruling that the state of Tennessee, as opposed to the local school board, should bear certain costs of school desegregation. In dicta, the *Kelley* court commented as follows:

> In language of majestic simplicity, our Constitution provides that "The United States shall guarantee to every State in this Union a Republican Form of Government...." U.S. Const. Art. IV, § 4. A "republican" form of government, as Madison suggested in Number Ten of the Federalist Papers, is "a Government in which the scheme of *representation* takes place." (Emphasis supplied.) In few (if any) areas of government is Madison's "scheme of representation" more important than it is in the area of government finance and taxation. A principal cause of our Revolutionary War, after all, was the imposition of taxes without representation. The concept that "taxation without representation is tyranny" was one for which a number of the Framers had put their very lives on the line. Our Constitution was not adopted to perpetuate the evil that led us to break our ties with the British Crown.

Id. at 997. *Kelley*, however, is inapposite to the issue in the instant case. The *Kelley* court was concerned with a federal judge apportioning state money the court felt was more appropriately done by the legislative branch. *Kelley* did not resolve the issue of whether there is an independent, federal right to no taxation without representation.

Accordingly, while the American Revolution may have been spurred on by the rallying cry 'no taxation without representation,' the federal Constitution that was subsequently drafted contained no express provision guaranteeing that as a right. In contrast, this Court has interpreted the South Carolina constitution as clearly prohibiting taxation without representation. *See, e.g., Weaver, supra.* Respondents simply cannot rest on the *Weaver* holding for their federal section 1983 claim. Because we find there is no **independent, federal right** found in the Republican Guarantee Clause prohibiting taxation without representation, respondents have no available section 1983 action against appellants.[7]

We therefore hold the trial court erred in granting summary judgment to respondents; instead, summary judgment should have been granted in appellants' favor. Given this conclusion, we need not address the issue of whether the trial

[7] In addition, we note that claims made pursuant to the Republican Guarantee Clause generally have been held by the USSC to be nonjusticiable, political questions. *See, e.g., Pacific States Tel. & Tel. Co. v. Oregon*, 223 U.S. 118 (1912); *see also Baker v. Carr*, 369 U.S. 186, 223-24 (1962) (stating the USSC has "consistently held that a challenge to state action based on the Guaranty Clause presents no justiciable question") (and cases cited therein); *Adams v. Clinton*, 90 F.Supp.2d at 71; *but see New York v. United States*, 505 U.S. 144, 185 (1992) (questioning whether all claims under the Republican Guarantee Clause present nonjusticiable, political questions).

court erred in certifying a plaintiff class.

REVERSED.

TOAL, C.J., MOORE, BURNETT, JJ., and Acting Justice John W. Kittredge, concur.

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT

Irvin W. Campbell, J. C. Lawyer
Backus Ferguson, and Thomas
Hanahan, III, on behalf of themselves
and all others similarly situated,
Plaintiffs,

vs.

Hilton Head No. 1 Public Service
District and Beaufort County,
South Carolina,
Defendants

Civil Action No.: 98-CP-07-842

ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

This matter came before the Court on cross-motions for Summary Judgment on November 28, 2001. For the reasons explained below, I grant Plaintiffs' Motion for Summary Judgment and deny Defendants' Motion for Summary Judgment.

Factual Background

Plaintiffs are individuals who own real or personal property geographically located within the territory of Hilton Head No. 1 Public Service District (hereinafter "PSD#1"). The PSD#1 was created by the General Assembly in 1969 to provide water and sewer services to the north end of Hilton Head Island, South Carolina. It is governed and controlled by a Board of Commissioners, the members of which are appointed, rather than elected.

Customers within the territory of the PSD#1 are charged a base rate, plus the charges for actual consumption. In addition, PSD#1 has historically levied real and property taxes that were collected by Beaufort County. The PSD#l taxes all persons who own real or personal property within its territory, even if they do not receive service from the PSD#1. The Defendants did not list the assessments as line items in the tax notices. In 1997, the South Carolina Supreme Court issued a ruling in *Weaver v. Recreation District,* 328 S.C. 83, 492 S.E.2d 79 (1997), holding that taxation by unelected bodies was impermissible taxation without representation. However, the Court provided that its ruling would not take effect until December 31, 1999. Thus, Defendants continued to tax the Plaintiffs. Plaintiffs sued on various grounds; however, after a complicated procedural history, the only remaining cause of action is an action under 42 U.S.C. § 1983 for a violation of the United States Constitution.

Standard of Review

Summary judgment is a very well recognized vehicle to secure the "just, speedy and inexpensive determination of every action." *Celotex Corp. v. Catrett,* 477 U.S. 317 (1986).

Summary judgment serves the useful purpose of

> disposing of meretricious, pretended claims before the court and parties become 'entrenched in a frivolous and costly trial. The courts, therefore, should not be reluctant to grant summary judgment in appropriate cases; indeed, summary judgment is mandated where appropriate."

Myrtle Beach Pipeline Co. v. Emerson Electric Co., 843 F. Supp. 1027, 1035 (D.S.C. 1993); *see also, Trico Surveying, Inc. v. Godley Auction, Co.,* 314 S.C. 542, 431 S.E.2d 565 (1993).

Summary judgment is an integral part of the rules of procedure, intended to expedite the disposition of cases not requiring the services of a fact finder." *Bankers Trust of S.C. v. Benson,* 267 S.C. 152, 226 S.E.2d 703 (1976). Because the facts in this case are undisputed, I find that it is entirely appropriate for summary judgment.

LAW/DISCUSSION

Plaintiffs' claim involves only one cause of action: an action pursuant to 42 U.S.C. § 1983.[1] Section 1983 states:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any

[1]This court has concurrent jurisdiction over such actions according to the United States Supreme Court. *Maine v. Thiboutot,* 448 U.S. 1 (1980).

> rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

The key issue in this case is whether a policy of the State of South Carolina permitted Plaintiffs to be subject to taxation without representation in violation of the United States Constitution.

In *Weaver v. Recreation District,* 328 S.C. 83, 492 S.E.2d 79 (S.C. 1997), the South Carolina Supreme Court held that taxation by an unelected body is taxation without representation and thus is unconstitutional under the South Carolina Constitution. *Id.* However, under the South Carolina Constitution, they allowed it to continue for two years. *Id.* While the question of continuing taxation without representation has been decided under the South Carolina Constitution, Plaintiffs allege that the continued taxation without representation is a violation of their rights under the Federal Constitution. The question is a simple one: is taxation without representation a violation under the United States Constitution and can a body continue to violate such a right? For the reasons set forth below, this Court finds that the continuing allowance of an unconstitutional taxation is a violation of Plaintiffs' Federal Constitutional rights, and thus a

violation of 42 U.S.C. § 1983.

The purpose of 42 U.S.C. § 1983 is to provide compensation for injuries arising from the violation of constitutional rights and deter future violations. *City of Monterey v. Del Monte Dunes at Monterey Ltd.,* 526 U.S. 687 (1999). The aim of § 1983 was "to afford a federal right in federal courts because, by reason of prejudice, passion, negligence, intolerance or otherwise, state laws might not be enforced and the claims of citizens to the enjoyment of rights, privileges, and immunities guaranteed by the Fourteenth Amendment might be deprived by state agencies." *Monroe v. Pape,* 365 U.S. 167, 180 (1961).[2] A broad construction of § 1983 is compelled by the statutory language, which speaks of deprivations of "any rights, privileges, or immunities secured by the Constitution and laws." The United States Supreme Court has "repeatedly held that the coverage of [§ 1983] must be broadly construed." *Golden State Transit Corp. v. Los Angeles,* 493 U.S. 103, 105, 110 S.Ct. 444, 448, 107 L.Ed.2d 420 (1989). The legislative history of the section also stresses that as a remedial statute, it should be " 'liberally and beneficently construed.' " *Monell v. New York City Dept. of Social Services,* 436 U.S. 658, 684, 98 S.Ct. 2018, 2032, 56 L.Ed.2d 611 (1978) (quoting Rep. Shellabarger, Cong.Globe, 42d Cong., 1st Sess., App. 68 (1871)). In *Dennis v. Higgins,* 498 U.S. 439, 444-445 (1991), the Supreme Court stated:

> the "prime focus" of § 1983 and related provisions was to ensure "a right of action to enforce the protections of the Fourteenth Amendment and the federal laws enacted pursuant thereto," *Chapman v. Houston Welfare*

[2]State courts have concurrent jurisdiction. *See,* Footnote No. 1, *supra.*

> *Rights Organization,* 441 U.S. 600, 611, 99 S.Ct. 1905, 1913, 60 L.Ed.2d 508 (1979), but the Court has never restricted the section's scope to the effectuation of that goal. Rather, we have given full effect to its broad language, recognizing that § 1983 "provide[s] a remedy, to be broadly construed, against all forms of official violation of federally protected rights." *Monell,* supra, 436 U.S., at 700-701, 98 S.Ct., at 2041.

A state's policy in allowing taxation without representation is surely a United States Constitutional violation for which 42 U.S.C. § 1983 was intended to provide relief.

Section 1 of the Fourteenth Amendment of the United States Constitution states: "No state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States[.]" The continued taxation without representation is a violation of the Fourteenth Amendment of the United States Constitution, which prohibits any state from enforcing laws that abridge a citizen's privileges. Taxation without representation is one of the founding privileges of this Country. This privilege is embodied in Article IV, Section 4 of the Federal Constitution, which guarantees our citizens a republican form of government.

> A republican form of government is a government administered by representatives chosen or appointed by the people or by their authority. Madison says it is a "government which derives all its powers directly or indirectly form the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior." (Federalist No.39)

Vansickle v. Shanahan, 511 P.2d 223, 243 (1973). As the Court stated in *Kelley v. Metropolitan County Bd. of Education of Nashville and Davidson Cty.*, 836 F.2d 986, 997 (6th Cir. 1987):

> In the language of majestic simplicity, our Constitution provides that "The United States shall guarantee to every State in the Union a Republican Form of Government...." U.S. Const. Article IV, §4. A "republican" form of government, as Madison suggested in Number Ten of the Federalist Papers is "a Government in which the scheme of representation takes place." In few (if any) areas of government is Madison's "scheme of representation" more important than it is in the area of government finance and taxation. A principal cause of our Revolutionary War, after all, was the imposition of taxes without representation. The concept that "taxation without representation is tyranny" was one for which a number of the Framers had put their very lives on the line. Our Constitution was not adopted to perpetuate the evil that led us to break out ties with the British Crown.

That case also noted that "it is inconceivable that the guaranties embedded in the Constitution of the United States may be manipulated out of existence." *Id.* (quoting *Baker v. Carr*, 369 U.S.186, 230 (1962)). It is clear that the United States Constitution does not permit taxation without representation.[3]

[3]Indeed it was taxation without representation that spurred on the American Revolution. As the American Revolutionists James Otis and John Hancock said, "Taxation without representation is tyranny." The Court cannot accept Defendants' argument that the

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Defendants argue that Plaintiffs are not entitled to any further or retroactive relief under *Weaver*. It is true that Plaintiffs are not entitled to any further relief on the grounds that the taxation scheme violated the South Carolina State Constitution; *Weaver* has already decided that issue. Here, however, Plaintiffs are requesting relief under the United States Constitution through 42 U.S.C. § 1983. Section 1983 specifically provides relief for a plaintiff who has been injured by a policy or procedure of the state. In fact, the very goal of § 1983 was to permit relief to citizens whose "rights, privileges, and immunities guaranteed by the Fourteenth Amendment might be deprived by state agencies." *Monroe v. Pape*, 365 U.S. 167, 180 (1961). The fact that the Plaintiffs have no relief under *Weaver* does not prevent Plaintiffs' recovery under 42 U.S.C. § 1983. Since a policy of the state permitted taxation without representation, in violation of the United States Constitution and Plaintiffs' rights thereunder, Plaintiffs are entitled to summary judgment for their 42 U.S.C. § 1983 claim.

THEREFORE, Plaintiff's Motion for Summary Judgment is hereby GRANTED and Defendants' Motion is hereby DENIED.

_/s/_____
Perry M. Buckner
Fourteenth Judicial Circuit

Walterboro, South Carolina
December 12, 2001

[3](...continued)
United States Constitution prohibits [sic] taxation without representation.

CODE OF LAWS OF SOUTH CAROLINA
1976 ANNOTATED

TITLE 6. LOCAL GOVERNMENT - PROVISIONS APPLICABLE TO SPECIAL PURPOSE DISTRICTS AND OTHER POLITICAL SUBDIVISIONS

CHAPTER 11. SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICTS GENERALLY

ARTICLE 1. GENERAL PROVISIONS

§ 6-11-271. *Millage levy for special purpose district.*

(A) For purposes of this section, "special purpose district" means any special purpose district or public service authority, however named, created prior to March 7, 1973, by or pursuant to an act of the General Assembly of this State.

(B)(1) This subsection applies only to those special purpose districts the governing bodies of which are not elected but are presently authorized by law to levy for operations and maintenance in each year millage up to or not exceeding a given amount and did impose this levy in fiscal year 1997-98.

(2) There must be levied annually in each special purpose district described in item (1) of this subsection, beginning with the levy for fiscal year 1999, ad valorem property tax millage in the amount equal to the millage levy imposed in fiscal year 1998.

(C)(1) This subsection applies only to those special purpose districts, the governing bodies of which are not elected but are presently authorized by law to levy for operations and maintenance in each year millage without limit as to amount.

(2) There must be levied annually in each special purpose district described in item (1) of this subsection,

beginning with the levy for fiscal year 1999, ad valorem property tax millage in the amount equal to the millage levy imposed in that special purpose district for operations and maintenance for fiscal year 1998.

(D) Notwithstanding any other provision of law, any special purpose district within which taxes are authorized to be levied for maintenance and operation in accordance with the provisions of subsections (B) or (C) of this section, or otherwise, may request the commissioners of election of the county in which the special purpose district is located to conduct a referendum to propose a modification in the tax millage of the district. Upon receipt of such request, the commissioners of election shall schedule and conduct the requested referendum on a date specified by the governing body of the district. If approved by referendum, such modification in tax millage shall remain effective until changed in a manner provided by law.

(E)(1) All special purpose districts located wholly within a single county and within which taxes are authorized to be levied for maintenance and operation in accordance with the provisions of subsections (B) or (C) of this section, or otherwise, are authorized to modify their respective millage limitations, provided the same is first approved by the governing body of the district and by the governing body of the county in which the district is located by resolutions duly adopted. Any increase in millage effectuated pursuant to this subsection is effective for only one year.

(2) Any millage increase levied pursuant to the provisions of item (1) of this subsection must be levied and collected by the appropriate county auditor and county treasurer.

HISTORY: 1998 Act No. 397, § 4.